IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.PADMANABHAN NAIR

THURSDAY, THE 21ST JUNE 2007 / 31ST JYAISHTA 1929

WP(C).No. 26504 of 2006(E)

PETITIONER:

THALAPPIL PARAMESWARAN, AGED 68 YEARS,
S/O. THEYYAN, VALAYANADU VILLAGE,
KOZHIKODE DISTRICT.

BY ADV. SRI.V.N.RAMESAN NAMBISAN

RESPONDENTS:

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1. DISTRICT COLLECTOR,
KOZHIKODE.

2. SPECIAL TAHSILDAR (L.A.)(N.H.),
KOZHIKODE.

3. EXECUTIVE ENGINEER,
PUBLIC WORKS DEPARTMENT (ROADS), KOZHIKODE.

BY GOVERNMENT PLEADER SRI.L.G.SURESH BABU.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 21/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.PADMANABHAN NAIR, J.

W.P.(C) No.26504 of 2006

Dated this the 21st June, 2007.

J U D G M E N T

An area of 0.0221 hectare of land belonging to the petitioner was acquired for a public purpose. He was awarded an amount of Rs.1,02,747/= as compensation. The petitioner did not make any application under Section 18(4) of the Land Acquisition Act, in short 'the Act', for reference. But subsequently he claimed the benefit under Section 28(A) of the Act, on the ground that the land situated very close to his property was also acquired. There was reference to the Sub Court as L.A.R.No.103/1990. The Sub Court awarded enhanced compensation. The Land Acquisition Officer accepted the contention of the petitioner, and re-determined the amount, and found that the petitioner was entitled to get an amount of Rs.53,924/= without any interest. According to the petitioner, there is absolutely no reason for disallowing the interest on the amount of compensation awarded.

2. In **Kallianikutty Amma v. The Special Tahsildar** (L.A.) (2003 (1) KLT 1014), a learned Single Judge of this Court, after an elaborate survey of decisions on the point, held that Collector can

grant interest under Section 34 of the Act, on the enhanced amount awarded on redetermination of compensation under Section 28A of the Act. Compensation includes solatium also.

3. In **Koruthukochukutty v. State of Kerala** (2000 (1) KLT 26), another learned Single Judge took a view that claimants are entitled to interest on the amount awarded under Section 28A of the Act.

4. In view of the above settled position of law, there is absolutely no justification in denying interest under Section 34 of the Act on the enhanced amount, on redetermination of compensation under Section 28A of the Act. I make it clear that the compensation includes solatium also. Hence, the Land Acquisition Officer shall pass an additional award granting interest under Section 34 also to the enhanced compensation and solatium fixed under section 28A of the Act.

In the result, this writ petition is allowed in part. The second respondent, Land Acquisition Officer, is directed to pass an additional award granting interest under section 34 of the Act, on the

enhanced compensation, granted under Section 28A of the Act, including solatium, within a period of two months from the date of receipt of a copy of this judgment. The Requisitioning Authority shall make available the necessary funds for payment of the interest also.

K.PADMANABHAN NAIR,
JUDGE

nj.